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## **ALBERT J. HOPKINS, LAWYER AND STATESMAN.**

A MEMORIAL BY JAMES SHAW.

Albert J. Hopkins was born in DeKalb County, Illinois, August 15, 1846. In the summer of 1870 he came to Aurora. He had none of the aids that young men ordinarily have in starting out in life. He did not know a single person in the town, which then had a population of about 11,000. He entered as a student the law office of Charles J. Metzner, one of the city's vigorous and enterprising lawyers. The office of Mr. Metzner was in the second story of the building now occupied by the dry goods store of Charles Boorkman. In due time young Hopkins was admitted to the bar, and on the death of Mr. Metzner, not long afterwards, he succeeded to the business. Thence forward his advance was rapid. He brought to his work the primary elements of success—zeal, energy, great powers of concentration, and tireless industry. These qualities won him high appreciation, and a large volume of business followed.

### **STARTS PUBLIC CAREER.**

In 1872 he became a candidate for the Republican nomination for state's attorney of Kane county. There was a sharp campaign for the office. Those were the days of the convention system. Under that system the politics of the county had long been ruled and regulated by a small number of able men, at the head of whom was William B. Allen, collector of internal revenue for this district. These men determined who should be the candidates of the party. They were the machine, and a very smooth running and powerful machine it was. And few there were, caring for office, who dared to defy it.

But a vital principle in a democratic government is that every political machine carries within itself the seeds of dissolution, or there are, outside the machine, the elements of revolution. Success makes it arrogant. Opposition is weak-

ened and strengthened. New men come to the front. Fresh issues are presented. Finally the old machine receives a rude shock, and is put out of business. So it was with the old Republican machine in Aurora in the early 70's.

At an early period of his residence in Aurora, young Hopkins had made warm friends and sincere admirers. Some of these, young men like Hopkins himself, had vision enough to see in him a coming man. Among these young men were Isaac Morgan, George Meredith, and C. P. Dutton. Morgan and Meredith conducted a clothing business on River street, and their store was where the forward looking young men of West Aurora foregathered. These young men took up the candidacy of Hopkins in dead earnest. There was a struggle that shook Aurora from center to circumference. But the old ring was no match for the youngsters. Youth would be served. The Aurora delegation was secured, and with that went the nomination of the convention. In November Hopkins was elected by a large majority, and for four years Kane county had a vigorous and successful prosecutor.

During his term as state's attorney, Hopkins never lost sight of his aim to build up a large private practice. The bar of Kane county had then an unusually large proportion of lawyers who might properly be called advocates,—men of force, learned in the law, skilled in the presentation of testimony, experts in dealing with the human element that pervades every conflict between man and man. Some of these men were capable, on occasion, of rising to a high plane of eloquence. They had wit in abundance to pierce shams. They employed satire and humor to ridicule an adversary's position. Every trial before the 12 men in the box was a real contest.

#### IN A BRILLIANT GALAXY.

Among such men were B. F. Parks and Charles Wheaton, of Aurora; A. M. Herrington, of Geneva; Edward Joslyn and A. H. Barry, of Elgin. There were also men of high character and solid learning, like S. W. Brown, of Aurora, and R. N. Botsford, of Elgin. In a bar composed of these men Hopkins soon took high rank. Long before his term as state's attorney expired, he had all the business he could attend to. From 1876 to 1885 he was retained on one side or the other of nearly

every important case that was tried in the courts of record of Kane, Kendall, DeKalb and DuPage counties.

Hopkins defended a number of men charged with crime. But the impression that was at one time quite general, that he was what is called a criminal lawyer, was a mistake. After leaving the state's attorney's office he assisted in the prosecution of criminal cases quite as often as he appeared for the defense. But the great bulk of his practice was at all times in civil actions.

#### FAMOUS AS A JURY LAWYER.

My first opportunity to observe the methods of Mr. Hopkins as an advocate came in 1878. I was employed to report the trial of Russell, administrator, vs. the Chicago & Iowa Railroad company. It was an action brought under the personal injury law. A young brakeman had been killed while in the performance of his duty, and his widow brought suit for the damages sustained in the loss of her support. Mr. Hopkins was the plaintiff's attorney, and he was assisted by Charles Wheaton. The railroad company was represented by B. F. Parks and a Chicago lawyer named Kretzinger.

In this trial Mr. Hopkins exhibited all those qualities that made for his great success as a jury lawyer—unceasing vigilance, lightning quickness in meeting emergencies, complete mastery of facts he proposed to present as testimony, thorough knowledge of the law governing the case, and an orderly and logical method of presenting his testimony. Nothing was left undone that could possibly be done, if it would help win the case. Every element of chance was eliminated where that was humanly possible. And lastly, though essentially a fighter, though naturally combative, he never wrangled with the court. He invariably submitted to an adverse ruling quickly and quietly. His aim, first, last and all the time was to win his client's case. To that end, he bent every effort. In the Russell case the jury returned a verdict in favor of the plaintiff. The judgment of the circuit court was affirmed by the supreme court.

In the years that followed that trial, until the election of Mr. Hopkins to congress, it was my fortune to be present at the trial of every important case in which he was either asso-

ciate or principal counsel. It would be impossible, within the limits of this article, to mention even a few of those cases. And no attempt of that kind will be made.

#### RECALLS ALLEN MURDER CASE.

Just one case may be referred to, and that only to illustrate Mr. Hopkins' skill in the art of cross examination. It was said many years ago by one of the greatest of English advocates: "The issue of a cause rarely depends upon a speech, and is but seldom even affected by it. But there is never a cause contested, the result of which is not mainly dependent upon the skill with which the advocate conducts his cross examination." It is the object of cross examination to elicit the truth from an unwilling or perhaps hostile witness. It is an art that exercises almost every faculty of the human mind—quickness of judgment, unerring memory, wit, imagination, knowledge of human nature. Its methods are as various as human nature itself.

It was in the practice of this art that A. J. Hopkins was a past master. It is a great mistake to suppose that the chief object of a cross examiner is to "break down" a recalcitrant or hostile witness. That may on occasion be the proper play; but only a tyro resorts to that course where it is unnecessary. An instance in the experience of Mr. Hopkins will illustrate this.

In the early 80's what was known as the Allen murder case was placed on trial in the circuit court of Kane county. The case grew out of the murder of a merchant named Allen, living and doing business in Sandwich. He had been awakened in the dead hour of night by the presence of burglars in his home. He got up. A struggle ensued. Allen was mortally wounded by a pistol shot. After a protracted investigation two young men of Sandwich, Will Thomas and one Woodsum, were arrested and indicted. They took a change of venue to Kane county, and the case was tried before Judge Kellum of Geneva. A. J. Hopkins and A. H. Barry were retained to assist in the prosecution. The defense was mainly conducted by one of the Chicago Van Burens, a very able lawyer.

The defense in the case of Thomas was an alibi, a defense with which we have been made familiar in the two trials of Walter Stevens in the last year or two. The difficulty of meeting such a defense, where the alibi is well planned, is recognized by all lawyers. In the case of Will Thomas it was claimed that he was at home and abed when the murder of Allen was committed, and that, therefore, he could have had no part in the crime. He had two witnesses to establish his alibi, his father and his mother.

They told, with great particularity and detail that Will had come home on the night of the murder; that for a time he had sat and talked with them; they told what they had talked about; they noticed the time, because there was a clock in the room; at quite a late hour Will took a lamp, and retired to his room. His mother testified that she had remained up for some time thereafter, engaged in some work. Finally she also went up stairs to retire, and, as she passed her son's room, she pushed the door open; there was Will Thomas, fast asleep. That was just about the time the shot was fired that killed Allen.

The story seemed impregnable. The old father and mother were evidently honest, simple minded people. It fell to Mr. Hopkins to cross examine them. He made not the slightest attempt to "break them down." His eye was on the jurors who were to be the final judges as to whether the father and mother had told the truth. Those 12 men were watching every move that was made; they were listening to every word that was uttered. They would be quick to resent any attempt to browbeat or harry these old people. Even if the witnesses had perjured themselves, they were moved by one of the holiest impulses of human nature, the affection of parent for child.

#### DISPROVED THE ALIBI.

Nothing was farther from the mind of Mr. Hopkins than to make that play. He knew, with unerring intuition, that any attempt to browbeat or intimidate those distressed old people would be fatal to the cause of truth and justice. He approached his difficult task in the most respectful manner. His attitude was one of sympathy for the trouble and distress

in which the parents of Will Thomas were involved. Gradually he drew from them the story of their wayward boy. They told of the late nights he had been in the habit of keeping; that sometimes he was not at home for days at a time; that it was an unusual thing for them to wait up for him. Of course they adhered to the story they had told on direct examination; but it was clear that that story was fabricated to save their boy. In the last analysis, the jury pitied them and sorrowed for them, but they did not believe their alibi. A verdict of guilty was returned. Will Thomas was convicted largely as a result of that cross examination.

#### STARTS CAREER TO CONGRESS.

In 1885 Rueben Ellwood, representative in congress from this district, died. Mr. Hopkins was elected to fill the vacant seat. He took his place in the house at the beginning of the long session of congress in that year. He was re-elected to the house eight successive times. There was, of course, the usual period or probation for him, as for all new members. That period was passed in "learning the ropes." But his wide experience as a lawyer, and his readiness in debate soon gave him a solid footing in the house. Indeed, it might be said that he there continued the practice of the law. For is not the work of legislation essentially the same thing as the law business? In each case there is the conflict of interests, the clash of opinions; the arts of persuasion, compulsion or reason must be employed in both lines of endeavor. A. J. Hopkins was therefore well equipped by mental training and by experience to win an assured place in that tribunal.

The year 1885 was the first year of President Cleveland's first administration. The Democrats were in control of the house. John G. Carlisle of Kentucky was speaker. In that congress were many men of mark. In the Illinois delegation were several who had won high places in public esteem. George E. Adams of Chicago, Robert R. Hitt of Mount Morris, Lewis E. Payson of Pontiac, Joseph G. Cannon of Danville, William R. Morrison of Waterloo, William M. Springer of Springfield and Thomas J. Henderson of Princeton are still remembered as men of unusual ability and sterling character.

By the time Mr. Hopkins had served his short period of probation he had taken rank as one of the leading Republicans in the house. He had made himself familiar with the parliamentary rules and practices of that body. He had learned the sometimes tortuous methods by which a member gets things done, and he exercised that knowledge to the fullest extent. He was a ready debater. He spoke well and convincingly on short notice.

The house remained in the control of the Democratic party until the session that began December 2, 1889. Thomas Brackett Reed was then recalled to the speakership. In this congress the republican majority in the house was only eight, and there were not always enough Republicans present to make a constitutional quorum. The Democrats, therefore, by refusing to vote, or to answer a roll call, undertook to prevent all Republican legislation by breaking a quorum. Thus they assumed to have more power by not voting than they had by voting. But Speaker Reed made a quorum by counting those present who were actually in the house. A fierce struggle ensued, as is usually the case when a body of men are deprived of the power to do things, or are rendered incapable of preventing others from doing things. In this memorable contest Mr. Hopkins rendered constant and effective support to the speaker.

#### RECORD AS A LAW MAKER.

Mr. Hopkins was instrumental in securing legislation in favor of the dairy interests of the country. He took an important part in framing the law for taking over the census of 1900. He was an effective advocate of the law creating the inter-state commerce commission, which has done so much to eliminate the irregularities of the railroad business, and which punishes favoritism and injustice by means of rebates in the transaction of that business. This law was violently opposed by powerful interests, but Mr. Hopkins believed that the legislation was necessary, and that it was justified on the theory that what the law had power to create it was authorized to regulate.

With the election of McKinley as president in 1896 the Republicans came into full possession of the government in



all its branches. Mr. Hopkins was assigned to membership on the committee of ways and means, the most important committee of the house. Here he had an influential part in framing the tariff legislation that was enacted. On the general subject of tariff rates and schedules he became an authority of scarcely less weight than William McKinley or Nelson Dingley, whose names are connected with tariff measures that were widely discussed, bitterly opposed, and enthusiastically favored.

In 1899 Mr. Hopkins came near being chosen speaker of the house. Reed had resigned his membership and retired to private life and the practice of law in New York city. The Illinois delegation was a unit in favor of making him Reed's successor in the chair. There was general recognition of his fitness for the position. Many pledges were made for his election. It finally became known that if the Wisconsin delegation was secured, Mr. Hopkins would have enough votes to make his election sure. The Wisconsin delegation was about evenly divided between Hopkins and Henderson of Iowa. That delegation was to vote as a unit. Two of its members had the deciding votes. These men pledged themselves to vote for Hopkins. But before the Wisconsin members met to decide upon their course, powerful influences were brought to bear over night on these two pivotal men. They cast their votes for Henderson. That decided the course of the Wisconsin delegation. Henderson received its vote. Mr. Hopkins withdrew from the contest and Henderson was nominated and elected.

The service of Mr. Hopkins in the house was characterized during the entire years by hard work and constant devotion to duty. During that service his mind developed, and his power of debate continually improved by the discipline of contact and conflict with the brightest men in that body.

#### ELECTED UNITED STATES SENATOR.

During the year 1902 Mr. Hopkins became a candidate for United States senator to succeed William E. Mason. There was a spirited contest for the position. Senator Mason was a candidate for re-election. Charles G. Dawes, a former comptroller of currency, was also a candidate, with the active

support of Senator Shelby M. Cullom. Mr. Hopkins made a thorough canvass of the state, with the result that the Republican state convention that fall, by a vote of more than two to one, endorsed his candidacy. On the meeting of the general assembly in January he was elected United States senator for the term of six years beginning March 4, 1903.

His service in the Senate was what might have been expected from his service in the house of representatives. He was a hard working, painstaking senator. As for many years he had been a leading member of the house, in the course of time he became a leading and influential member of the senate. His career as a senator cannot be followed minutely in the space allotted to this article. Two instances however, may be cited to indicate his power to change well settled opinions by the presentation of proper reasons for the change. It has rarely fallen to the lot of any United States senator to effect results such as Senator Hopkins effected in two very important matters.

It will be remembered that early in his first administration President Roosevelt vigorously pressed the enactment of measures for the construction of the Panama canal. Finally the stage was reached where it was necessary to determine whether the proposed water way should be a sea level or lock level canal. President Roosevelt appointed a board of engineers to investigate the proposed route, and report as to which type of canal should be constructed. It was a mixed board, composed of nine American engineers, and four engineers appointed by the governments of Great Britain, France, Germany and the Netherlands. The members of the board went to the canal zone, and made a thorough study of the local topography. They held many meetings, and discussed exhaustively the matter given them in charge. They made two reports in regard to the type of canal to be constructed. Eight of the engineers favored a sea level canal. Five engineers, all Americans, recommended the construction of a lock level canal.

The president submitted these reports to congress. In his letter of transmittal he stated that he favored a lock level

canal, but if congress saw fit to authorize a sea level, he would carry out its direction. The Panama canal committee of the senate was composed of 11 members. Of these, six favored a sea level canal; five voted for a lock level canal. Senator Hopkins was a member of this committee, and he was one of the minority that favored a lock level canal. He prepared a bill providing for the construction of a water way of that type.

#### DREW PANAMA CANAL BILL.

He made an intensive study of the whole subject, particularly in relation to the topography of the zone, its liability to torrential rains and tremendous floods, etc. His conclusion from this study was that a lock level canal was the type that should be adopted, on the ground of economy both of construction and operation, its greater freedom from floods, etc. His views on the subject he presented to the senate in an elaborate speech with such force and clarity that the minority report was adopted, and the bill prepared by him was enacted into law. So it was decreed that the canal should be of the lock level type, and that is the kind of canal that was constructed. The result was highly pleasing to President Roosevelt and also to Secretary of War Taft, both of whom favored a lock level canal. They wrote Senator Hopkins cordial letters of appreciation of his speech.

Another remarkable triumph came to Senator Hopkins when the question of seating Reed Smoot as a senator from Utah came up for action. Mr. Smoot was a Mormon, and good people all over the country were horrified at the thought of a Mormon being given a seat in the senate of the United States. Influential religious bodies without number protested against such a possibility. In their eyes polygamy and Mormonism were one and the same thing.

Smoot's credentials were referred to the committee on privileges and elections. It soon appeared that a majority of that committee were opposed to giving Reed Smoot a seat. Tremendous pressure was brought to bear on the committee to produce this result. A great volume of testimony

was taken on the subject. Finally the committee reported to the senate a resolution to the effect that "Reed Smoot is not entitled to a seat in the senate as a senator from Utah." Senator Burrows, of Michigan, made an able speech in support of this resolution.

#### SAVED REED SMOOT A SENATORSHIP.

Senator Hopkins made the same exhaustive study of this matter that he did of the canal question. He became convinced by that study, and by the consideration of all the testimony that had been submitted, that polygamy, or plural marriage, was no longer part of the creed of the Mormon church; that a great majority of the members of that church were living in obedience to the laws of the United States against polygamy; that Reed Smoot was not, and never had been, a polygamist; that to refuse him a seat in the senate merely because he held certain religious views would be a violation of the section of the constitution prohibiting religious tests as a qualification for any office or public trust under the United States.

There was a long debate on the subject. At its conclusion the resolution reported by the committee was defeated by a vote of 42 against to 28 for. And Reed Smoot was given his seat as a senator from the state of Utah. The opposition to Smoot on religious grounds has subsided. It is now seen that the right thing was done. That it was done is largely due to the argument of Senator Hopkins.

Mr. Hopkins retired from the senate in 1909, under circumstances that will not be reviewed here. His retirement brought to a close 24 years of service in congress. It was a service in which he gave to Illinois and to the nation the best that was in him. That service was written large in the laws that congress enacted. The state has been represented in both branches of the national legislature by many able men, and when the future historian shall make up the roll of those to be most honored for distinguished service, high on the roll will appear the name of Albert J. Hopkins.

In 1873 Mr. Hopkins married Miss Emma C. Stolp. Mrs. Hopkins and three sons and one daughter survive the husband and father. Senator Hopkins died in Aurora, August 23, 1922.

The funeral occurred at Aurora, Ill., Saturday, August 26, 1922. A committee of Chicago attorneys attended the funeral of Senator Hopkins at Aurora as representatives of the Chicago Bar Association. They were: Judge Samuel Alschuler, Eugene Clifford, Elwood G. Godman, Jacob Newman, Edwin W. Sims, Emil C. Wetter, Judge James H. Wilkerson, Henry M. Wolf, R. B. Scott, and J. C. James.